IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Appeal No.326 of 2000

Date of decision : August 24, 2007

State of H.P. **...Appellant.**

Versus

Sajjan Singh and others **…Respondents.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?[1]

For the Appellant : Mr. D.S. Nainta, Deputy Advocate General.

For the Respondents : Mr. Anoop Rattan, Advocate, vice Mr. Ravi Bakshi, Advocate.

Surjit Singh, Judge(Oral)

Respondents were sent up for trial for offences punishable under Sections 452, 384, 506, 506, 504, 323, 114 read with Section 34 of the Indian Penal Code, for allegedly giving beatings to PW-1 Malka Rani and her daughter PW-2 Seema, on 14th September, 1993 and then again on 20th September, 1993. PW-1 Malka Rani was also alleged to have been forced to sign an affidavit by respondent Ishwar Dass Chaudhary with regard to relinquishment of her claim in respect of a truck of her deceased husband.

2. Prosecution version may be summed up thus. PW-1 Malka Rani was married to Darshan Lal, a brother of respondents Sajjan Singh and Ishwar Dass and son of respondent Harjeet Kaur. He (Darshan Lal) owned a truck. It appears that he had been murdered and his truck had been stolen. After the truck was recovered, it was given on *Sapaurdari* to respondent No.1 Sajjan Singh. When PW-1 Malka Rani

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Whether reporters of the local papers may be allowed to see the judgment?

demanded accounting of income in respect of the truck, respondent Sajjan Singh allegedly gave her beating on 14th September, 1993. On 20th September, 1993 when respondent No.2 Ishwar Dass returned to the village he too gave beating to PW-1 Malka Rani and her daughter PW-2 Seema and forcibly obtained the signature of PW-1 on some affidavit.

3. Prosecution examined seven witnesses, including PW-1 Malka Rani, PW-2 Seema, PW-3 Sehaj Ram, Pradhan of the Panchayat, PW-6 Baldev Singh, a brother of PW-1 Malka Rani, and PW-7 Inspector Ramna Ram, Investigating Officer.

4. Trial Court has acquitted the respondents holding that the version given by the witnesses, besides being contradictory to the earlier version given to the police by PW-1 Malka Rani, vide statement Ex. PB, is self contradictory.

5. I have heard the learned Deputy Advocate General and gone through the record.

6. Testimony of PW-1 Malka Rani and her daughter PW-2 Seema as also of the other witnesses is contradictory to the version that was given to the police vide statement Ex. PB, under Section 154 of the Code of Criminal Procedure, by PW-1 Malka Rani. As per the version in Ex. PB, PW-1 Malka Rani was initially beaten up on 14th September, 1993 and then on 20th September, 1993 and it was on 20th that she was forced to sign an affidavit. However, in her deposition as PW-1, she did not give any date of her initial beating and stated that when after a week of the beating she got herself admitted to the hospital in connection with treatment of the injuries, respondents came to the hospital, gave her beating and forced her to sign the affidavit. She was admitted to the hospital on 21st September, 1993. According

to the contents of Ex. PB, her signatures on the affidavit had allegedly been obtained on 20th September, 1993. PW-2 Seema stated that on 14th September, 1993 her mother was only hurled abuses. She did not say that she had been beaten up by the respondents. She stated that she was beaten up in the evening on the same day by Ishwar Dass. Her statement is contrary to what PW-1 got recorded in Ex. PB and stated in the Court as according to her respondent Ishwar Dass gave her beating either on 20th September, 1993 at home or on 21st September, 1993 at the hospital. PW-3 Sehaj Ram has stated that PW-1 Malka Rani was beaten up first on 13th September, 1993 and second time on 17th September, 1993. His statement is in total contradiction with the version narrated by PW-1 Malka Rani and her daughter PW-2 Seema. The witness is shown to be on inimical terms with the respondents. PW-6 Baldev Singh, brother of PW-1 Malka Rani, is not named as an eye-witness in Ex. PB and, therefore, his testimony is of no consequence.

7. In view of the abovestated position, the view taken by the learned trial Court cannot be stated to be not formable on the basis of the evidence on record. Hence, the present appeal against acquittal is dismissed.

August 24, 2007(sd) **(Surjit Singh), J**